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February 2, 2005

Via ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: **Notice of Ex Parte Presentation**
MB Docket Nos. 98-120, 00-96, 00-2, 03-15

Dear Ms. Dortch,

Pursuant to Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206, EchoStar Satellite L.L.C. ("EchoStar") submits this letter to report that, on February 1, 2005, representatives of EchoStar met separately with the following: Jonathan Cody, Legal Advisor to Chairman Powell; Matthew Brill, Senior Legal Advisor to Commissioner Abernathy; Jordan Goldstein, Senior Legal Advisor to Commissioner Copps; and Catherine Bohigian, Legal Advisor to Commissioner Martin.

EchoStar expressed its opposition to mandatory multicast carriage, and also noted its opposition to mandatory carriage of a local station's high-definition ("HD") signal in HD format. The ability of satellite carriers to downconvert HD signals as contemplated in the Ferree Plan¹ is essential.

¹ *Completing the Digital Television Transition*, Hearing Before the Senate Comm. On Commerce, Sci. & Transp., 108th Cong (2004) (statement of Kenneth Ferree, Chief, Media Bureau, FCC, at sections III.2 & 3), *available at* http://commerce.senate.gov/hearings/testimony.cfm?id=1220&wit_id=3513 (last visited Feb. 2, 2005).

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In EchoStar's view, requiring multicast carriage or HD must-carry would likely be unconstitutional under the *O'Brien* test as applied in the *Turner* and *SBCA* cases.²

EchoStar has been at the forefront of a strategy to encourage consumer acceptance of the HD format through, among other things, the importation of distant digital signals into households not served by the local network station. However, the retransmission of several distant HD signals to eligible households nationwide is very different from a mandatory requirement to carry *every* local station in multicast or HD format into *every* market where EchoStar offers local-into-local service.

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, 47 C.F.R. § 1.1206(b)(2), one copy of this notice is being filed electronically in each of the above-captioned proceedings.

Respectfully submitted,

/s/

Pantelis Michalopoulos
Counsel for EchoStar Satellite L.L.C.

Cc: (by electronic mail)
Jonathan Cody, Legal Advisor to Chairman Powell
Matthew Brill, Senior Legal Advisor to Commissioner Abernathy
Jordan Goldstein, Senior Legal Advisor to Commissioner Copps
Catherine Bohigian, Legal Advisor to Commissioner Martin

² *United States v. O'Brien*, 391 U.S. 367 (1968) ("*O'Brien*"); *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622 (1994) ("*Turner I*"); *Turner Broadcasting System, Inc. v. FCC*, 520 U.S. 180 (1997) ("*Turner II*"); *Satellite Broadcasting and Communications Ass'n v. FCC*, 275 F.3d 337 (4th Cir. 2001) ("*SBCA*").